

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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City of Haverhill Municipal Aggregation) D.T.E. 99-93

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City of Easthampton Municipal Aggregation) D.T.E. 99-103

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**COMMENTS OF THE MASSACHUSETTS DIVISION OF ENERGY
RESOURCES ON THE HAVERHILL AND EASTHAMPTON MUNICIPAL
LOAD AGGREGATION PLANS.**

I. Introduction.

On October 27, 1999, City of Haverhill and Town of Easthampton (Petitioners) filed their respective Municipal Load Aggregation Plans (Aggregation Plans) with the Department of Telecommunications and Energy (Department). Haverhill and Easthampton submitted amended, "final" Aggregation Plans on March 1, 2000. The Haverhill and the Easthampton Municipal Aggregation Retail Tariff Agreements were filed at the Department on April 12, 2000.

The Department currently has before it two aggregation plans. It so happens that the aggregation consultants for Haverhill are the same as those for Easthampton. The Division of Energy Resources (DOER) met with these consultants and officials from Haverhill on several occasions to review and discuss elements of the proposed Haverhill plan. However, DOER did not discuss the Easthampton plan with these consultants, and has not met with any officials from the Town of Easthampton. Nevertheless, because the plans of each town are virtually identical, DOER's comments apply to both plans.

II. Consultations with DOER.

Section 247 of Chapter 164 of the Acts of 1997 (the Massachusetts Electric Restructuring Act or "Act") requires that "... A municipality or group of municipalities establishing load aggregation...shall, in consultation with the division of energy resources, develop a plan...detailing the process and consequences of aggregation. Section 247 also requires that "[s]aid plan shall be filed with the department, for its final review and approval."

DOER interprets this statutory language to require that a municipality wishing to aggregate must "consult" with DOER, but that the plan ultimately filed with the Department for its review may not necessarily represent agreement between the municipality and DOER as to all the terms of that aggregation plan. That is the case here.

The Petitioners represent that the plans have cleared the "consultation" phase, and having allegedly done so, meet the minimum content standards asserted in the Petition for Approval. DOER respectfully disagrees. Although in the course of the meetings between representatives of the City of Haverhill and DOER some changes were made to address some of DOER's initial concerns, the "final" plans filed do not meet the minimum content standards required for approval of an aggregation plan by the Department.

In DOER's view, the ongoing discussions had not concluded, and certain issues remain unresolved. DOER does not share the Petitioners' view that DOER's reservations about aspects of the Aggregation Plans were somehow "reflected" in the "final" plans. Indeed, DOER is not certain what documents filed by the Petitioners actually comprise the "final" plans. Petitioners' "final" plans along with the Aggregation Retail Tariff Agreements are inconsistent with each other, rendering the Aggregation Plans difficult to fully understand and evaluate.

III. Specific Issues/Ambiguities in the Aggregation Plans.

In addition to the difficulties of procedural nature, there are also substantial programmatic problems with the Aggregations Plans.

1. Pricing: In order for an Aggregation Plan to be approved by the Department, a municipality must demonstrate that the price for energy under such plan will be lower than the standard offer at least in the subsequent years. Section 247 of Chapter 164 of the Acts of 1997. Pricing was not submitted for any customer classes as part of the Aggregation Plans. Hence, DOER is unable to make an informed comment on the proposed ability of the municipal aggregation to obtain a competitive price for each rate class.
2. Equitable treatment of all classes of customers: DOER interprets the statutory requirement of "equitable treatment" by a municipal aggregation to mean that customers with comparable load characteristics should receive service at comparable prices, terms and conditions. Section 247 of Chapter 164 of the Acts of 1997. The Aggregation Plans do not provide sufficient information for the Department to make this determination. To be certified, the Plans would require justification and a methodology for determining comparability of various load characteristics, prices and contract terms and conditions. The Aggregation Plans as filed do not provide adequate description of the anticipated "adjustments" to the base rate.
3. Combining of Loads: It is unclear whether the loads of each town are to be supplied separately or collectively. In the latter case, the Department should note the potential for cross-subsidization due to the difference between the Standard Offer price in the two towns. This cross-subsidization may not benefit customers in each town equally in that the town with the higher Standard Offer price might be able to obtain a better price if they were to separately solicit a competitive bid. The plans should address this potential for cross subsidization.
4. Hidden Cost Adders: Both the Haverhill and Easthampton Aggregation Plans state that the respective aggregation programs are "designed to be entirely self-funded" and that they "do not expect any service start up charges by the generation company." The Haverhill Aggregation Plan at 16; The Easthampton Aggregation Plan at 16.

Furthermore, as described, the municipal aggregation is relying on the prospective bidder to pay for the administrative cost of managing the procurement of competitive power supplies strategy by including them in the rates that are bid. The Haverhill Aggregation Plan at 7. DOER finds these statements to be in conflict with the language of the tariffs suggesting that there may be additional charges, such as "start-up charges, any special meter reading charges, or termination charges" associated with the final supply contract. The Haverhill Municipal Aggregation Retail Tariff Agreement, Appendix 3.

5. Supplier Responsibilities: The rights and responsibilities of the power supplier and the provision of retail responsibilities are not documented in the plan. DOER

does not believe that a municipal aggregation is exempt from these consumer protection issues, as required by the Department regulation.

6. Reliability of Service: DOER interprets "reliability" consistent with the Department rulings in the past, but would accept modification to reflect the unique status of a municipal aggregation in a restructured environment. In the case of a municipal aggregation, DOER interprets "reliability of service" to mean not physical delivery of power since the Distribution Company remains responsible for physical and operational reliability, but rather as financial responsibility to absorb any costs incurred to insure delivery of a sufficient volume to serve all customers at all times. As such, this "reliability" can be achieved by obtaining financial guarantees from the selected supplier to cover the costs of replacement electricity if the supplier fails to perform. There is no showing in the Haverhill plan that this requirement will be met for the multiple supply contracts that are proposed.

7. Billing Services: Both plans and their respective tariffs assume that the local distribution company will provide all billing services under a single bill approach. There is no documentation showing that the Distribution Companies intends to comply with this assumption. Without such an agreement, implementation will face a formidable obstacle.

8. Inadequate Customer Out-Reach: Among the obligations outlined for the Cities in both the Haverhill and Easthampton Aggregation Plans [Section 6] is the responsibility for "answering consumers questions about the aggregation plan." Again, this contradicts the language supplied in Appendix 3 of the tariff - "How to Enroll" or "Opt Out Letter", suggesting that the burden of answering these consumer questions will be on DOER and that this agency will be responsible to provide customers with "more information regarding other available service options." Although DOER responds to consumer inquiries regarding energy supply questions, DOER is not staffed to handle the large volume of calls from customers that can be expected when aggregations become operational.

IV. Conclusion.

The Massachusetts legislature included municipal aggregation in the Restructuring Act because they felt it provided a special opportunity for residential and other small-load consumers in the Commonwealth to benefit from restructuring. It now falls to the Department to implement these goals, and by precedent, to assure that the rights of all potential customers of municipal aggregations are protected.

Respectfully Submitted,

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